

REMARKS/ARGUMENTS

Applicants note that this case was unintentionally abandoned for failure to respond to the Office Action mailed December 13, 2007. Enclosed herewith is a Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. 1.137(b).

This application contains claims 1-20. Due to a restriction requirement now made final, claims 1-10 have been withdrawn. In addition, due to an election of species requirement, claims 13-16, 18 and 20 have been withdrawn. However, applicants submit that claims 12 and 14-19 read on applicants' election of aloin as a second monomer. Applicants therefore respectfully request that claims 11, 12 and 14-19 be considered at this time.¹

Claim 17 has been rejected under 35 U.S.C. §112, second paragraph, as indefinite due to a typographical error. This error has been removed from claim 17.

On the merits, claim 11 has been rejected under 35 U.S.C. §102(b) as anticipated by US Patent No. 4,230,817 to Charbonneau.

Claim 11 has been amended to delete the hydroxybenzoic acid monomers. Accordingly, the rejection under Section 102(b) is overcome.

Claims 11, 12, 17 and 19 stand rejected under 35 U.S.C. §103(a) as obvious over US Patent No. 5,744,125 to Pawelek et al. in view of US Patent No. 4,714,609 to Carden. The Examiner argues Pawelek teaches cosmetic melanins produced from precursor monomers that share the common characteristics of at least one aromatic ring and at least one ionizable group, such as aloin, emodin, alizarin, 3-aminotyrosine and 3,4-dihydroxybenzoic acid.

The Examiner acknowledges that Pawelek does not teach using vanillin, which also has an aromatic ring and an ionizable side group. Accordingly, Cardin is cited to show the use of vanillin. The Examiner argues it would have been obvious to incorporate vanillin into the Pawelek polymers.

Applicants traverse the rejection under Section 103. Filed herewith is a Declaration under 37 C.F.R. 132 by Dr. Connie Baozhen Lin, an inventor on this application. The data set forth in the Declaration shows that not all combinations of monomers having at least one aromatic ring and at least one ionizable group result in useable polymers. Specifically, Dr. Lin compared reaction products made from combinations of caffeic acid and aloin (comparative)

¹ For the convenience of the Examiner, all of claims 11-20 are reproduced above.

with polymers made from vanillin and aloin (according to the invention). Caffeic acid, aloin and vanillin each have at least one aromatic ring and at least one ionizable group. The products were prepared and tested as set forth in Examples 1 and 2 of the specification.

The results were as follows. Comparative Polymers C1 and C2 made from caffeic acid and aloin in each case formed oily precipitates that were unsuitable for use. In contrast, Polymers 1 and 2 according to the invention made from vanillin and aloin had medium to high solubility in deionized water. When applied to human skin, Polymers 1 and 2 induced visible color on the skin that remained after water washing. In the case of Polymer 2, the color also remained after soap washing as well.

This data demonstrates that the combination of the Pawalek and Carden teachings without more does not arrive at the claimed invention. Not all combinations of monomers having at least one aromatic ring and at least one ionizable group result in useable polymers. Applicants' selection of polymers made from monomer combinations that include vanillin monomers or o-vanillin monomers is not suggested by the references and indeed provides superior results.

The foregoing presents a full and complete response to the outstanding Office Action. Applicants look forward to an early notice of allowance.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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